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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/866,145

05/25/2001

Richard Alan Haase

4449

7590

04/17/2008

Mr Richard Haase
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EXAMINER

BARRY, CHESTER T

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

04/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/866,145	Applicant(s) HAASE, RICHARD ALAN	
	Examiner CHESTER T. BARRY	Art Unit 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 13, 15 - 20, 39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 5, 7 - 9, 15 - 18, 39/17 is/are rejected.
- 7) ☒ Claim(s) 6, 10 - 13, 19 - 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Non-Entry of Supplemental Response Filed 12/27/07

The Supplemental Reply filed 12/27/07 has not been entered, read, or considered because applicant was not entitled to entry thereof. 37 CFR 1.111(a)(2).

Art Rejections

Claims 1 – 5, 7 - 9, 15, 17, 39/17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eberhard in view of Williams and Lo Sasso.

USP 5019267 to Eberhard describes a method of dewatering biological sludge from a constant 50°C (col 5 line 58) digestion process by adding a cationic polymeric flocculent, i.e., Zetag 92, to the thermophilic biological sludge. As evidenced by USP 5561520 to Williams, Zetag 92 is an ultra-high molecular weight polyacrylamide carrying a medium charge density (col 6 line 10). Accordingly, Eberhard describes a method of dewatering a thermophilic biological sludge in which a cationic polyacrylamide is added to the thermophilic biological sludge. Eberhard does not describe adding aluminum sulfate or ferric chloride to the thermophilic biological sludge.

USP 3642619 to Lo Sasso describes a synergistic benefit is using a combination of cationic polyacrylamide and ferric chloride to effect dewatering of a biological sludge. The skilled artisan would have had a reasonable expectation of success in improved dewatering performance of Eberhard's thermophilic biological sludge by using a combination of ferric chloride and Zetag 92, as suggested by Lo Sasso.

Claims 2 and 3 specify more specifically than in claim 1 the chemical identity of the polyquaternary ammonium compound, but none of claims 1 – 5, 7 requires that the

polyquaternary ammonium compound or aluminum sulfate be present. Claim 1 merely states that the primary component “**may** also comprise” the polyquaternary ammonium compound (emphasis added”).

Per claims 8-9, the concentration of a dewatering polymer relative to solids content in a dewatering operation was at the time the invention was made known to have an effect on the dewatering performance. Therefore, it would have been obvious to have varied and optimize this parameter for particular sludges.

Per claim 39/17, it was well known to mixed primary sludge with digested sludge in such processes, so it would have been obvious to have done so using Eberhard's process as well. See for example, United States Patents: 4380496, 3613564, 3397139.

Claim 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eberhard in view of Williams and Lo Sasso.

USP 4193869 is directed to wastewater treatment. It teaches that organic polymers can be used with an inorganic coagulant such as ferric chloride and aluminum sulfate (alum) while USP 5500131 to Metz teaches that combinations of ferric chloride and aluminum sulfate flocculents can be used. It would have been obvious therefore to have used aluminum sulfate in place of ferric chloride, or to have used a combination of ferric chloride and aluminum sulfate in the Eberhard method as modified by Lo Sasso, as suggested by Metz or USP 4193869.

Applicant's arguments and affidavits filed 12/20/07 have been carefully considered, but are not persuasive. All the evidence of both obviousness and non-obviousness was carefully considered.

Objection is made to claims 6, 10, 11, 12 – 13, 19 - 20 for dependence on a rejected base claim, but would be allowed if presented in independent form.

Rejection under 35 USC Sec. 251 - Supplemental Reissue Declaration Required

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37CFR 1.175(b)(1) must be received before this reissue application can be allowed. At the time the reissue declaration was filed on 5/25/2001, correction of certain errors through reissue of the patent was sought. Specifically, the corrections constituted the addition of new claims 16 - 38. After the reissue declaration was filed, various other amendments have amended original claims 1 - 13 & 15, cancelled original claim 14 and claim 21 (by the 12/20/07 response), amended or cancelled certain added claims, and even added another new claim, i.e., claim 39. Consequently, the claims in their present form constitute "corrections" of the patent that were not covered by the initially-filed reissue declaration.

Accordingly, the reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.


Claims 1 - 13, 15- 20, 39 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth in the preceding paragraphs. Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant." See MPEP § 1414.01.

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

/Chester T. Barry/
Primary Examiner, Art Unit 1797
571-272-1152

<div>Application Number</div> <div></div>	Application/Control No.	Applicant(s)/Patent under Reexamination	
	09/866,145	HAASE, RICHARD ALAN	
	Examiner	Art Unit	
	CHESTER T. BARRY	1797	